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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,432	06/13/2006	Nicolas Burdin	06-439	6546
20306 7590 09/09/2008 MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP 300 S. WACKER DRIVE 32ND FLOOR CHICAGO, IL 60606				
EXAMINER YOUNG, SHAWQUITA				
ART UNIT		PAPER NUMBER		
1626				
MAIL DATE		DELIVERY MODE		
09/09/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,432

Applicant(s)

BURDIN ET AL.

Examiner

SHAWQUIA YOUNG

Art Unit

1626

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/CIS)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 6/13/06

DETAILED ACTION

Claims 1-6 are currently pending in the instant application. Applicants have cancelled claims 7 and 8 in a preliminary amendment.

I. *Priority*

The instant application is a 371 of PCT/FR04/03308, filed on December 20, 2004 and claims benefit of Foreign Application FRANCE 0314995, filed on December 19, 2003.

II. *Information Disclosure Statement*

The information disclosure statement (IDS) submitted on August 1, 2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

III. *Restriction/Election*

A. *Election: Applicant's Response*

Applicants' election without traverse of an immunostimulant composition comprising 4-amino-2-ethoxymethyl- α,α -dimethyl-1-H-imidazo[4,5c]quinoline-1-ethanol, a Toll-like 7 receptor agonist and ER804057, a Toll-like 4 receptor agonist in the reply filed on June 4, 2008 is acknowledged.

Subject matter not encompassed by elected Group above are withdrawn from further consideration pursuant to 37 CFR 1.142 (b), as being drawn to nonelected inventions.

IV. Rejections

Claim Rejections - 35 USC § 112, 1st paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The "imidazoquinolineamine derivatives" of the of Claim 4 are not defined in the specification so as to know the structures of the compounds that are included and/or excluded by the term. Therefore, the specification lacks adequate support for Claims 4-6.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the terms "Toll-like 7 receptor", "Toll-like 8 receptor" and "Toll-like 4 receptor" found in claim 1 and the phrase renders the products indefinite as the above terms can be considered open-ended language when not clearly defined and therefore is including additional subject matter in the

compositions claimed in claim 1 that is not described in the instant specification and is not particularly pointed out or distinctly claimed. A claim to a compound in a composition cannot be open-ended, but must be claimed with precision.

Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 4-6 are indefinite for the reasons set forth above under 35 U.S.C. 112, first paragraph. Claim 4 contains the limitation that the agonist of the Toll-like 7 receptor is an imidazoquinolineamine derivative. However, the "imidazoquinolineamine derivative" in Claims 4-6 are not defined in the claims so as to know the metes and bounds of the claims. Therefore, the claims are indefinite.

Claims 5 and 6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, claim 5 depends on the "preceding claim" but there are 4 claims that precede claim 5 and it is unclear what claim that claims 5 depends on. Therefore, the claims are indefinite.

V. Objections

Claim Objection-Non Elected Subject Matter

Claims 1-6 are objected to as containing non-elected subject matter. To overcome this objection, Applicant should submit an amendment deleting the non-elected subject matter.

VI. Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shawquia Young whose telephone number is 571-272-9043. The examiner can normally be reached on 7:00 AM-3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph M^oKane can be reached on 571-272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Shawquia Young/
Examiner, Art Unit 1626

/Kamal A Saeed, Ph.D./

Primary Examiner, Art Unit 1626